

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

OLGA L. TOBIN  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 227  
Washington, D.C. 20044  
202-307-6322 (v)  
202-514-6866 (f)  
Olga.L.Tobin@usdoj.gov  
*Counsel for the United States*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	)	
	)	Case No. 3:18-cv-16034
Plaintiff,	)	
	)	
v.	)	
	)	
STEVEN L. WEINER	)	
589 WESTWOOD AVE.	)	
LONG BRANCH, NJ 07740, and	)	
	)	
MARGERY WEINER	)	
589 WESTWOOD AVE.	)	
LONG BRANCH, NJ 07740,	)	
	)	
WELLS FARGO HOME MORTGAGE	)	
8480 STAGECOACH CIR.	)	
FREDERICK, MD 21701	)	
	)	
LOANCARE SERVICING CENTER	)	
3637 SENTARA WAY,	)	
VIRGINIA BEACH, VA 23452	)	
	)	
JP MORGAN CHASE BANK	)	
700 KANSAS LANE, MC 8000,	)	
MONROE, LA 71203	)	

HULSE & WYNTER LLC )  
1624 JACKSONVILLE RD, STE 1, )  
BURLINGTON, NJ 08016 )  
)  
HMFCG INC )  
1820 AVENUE M, STE 213, )  
BROOKLYN, NY 11230 )  
)  
Defendants. )  
)

### **AMENDED COMPLAINT**

The Plaintiff, the United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, brings this action 1) to collect the unpaid federal income taxes, penalties, and interest assessed against Steven and Margery Weiner for the 2006-2008 and 2010-2016 tax years; 2) to collect Trust Fund Recovery Penalties (TFRPs) assessed against Steven Weiner for failure of his business Brick Dental Group to timely withhold, collect and pay over to the Internal Revenue Service accruing federal tax liabilities of the business; 3) to enforce federal tax liens associated with those liabilities against Steven and Margery Weiner's interest in real property located in Monmouth County, NJ. In support of this action, the United States alleges as follows:

### **JURISDICTION & VENUE**

1. Jurisdiction is conferred upon the district court by virtue of 28 U.S.C. §§ 1331, 1340 and 1345 and 26 U.S.C. §§ 7402 and 7403.

2. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1396 because the federal tax liabilities and civil penalties at issue accrued in Monmouth County, NJ, which is located in this judicial district. Defendants are also residents of Monmouth County, NJ. Additionally, the United States seeks to enforce its liens against real property, which is located in Monmouth County, NJ.

### **PARTIES**

3. The Plaintiff is the United States of America.

4. Defendant Steven L. Weiner resides in Monmouth County, NJ, within the jurisdiction of this Court. He is the owner of Brick Group Dental PC and has been assessed TFRPs for failure of his business to timely withhold, collect and pay over to the IRS accruing federal tax liabilities of the business. He may have an interest in real property upon which the United States seeks to enforce its liens based on his continued possession of and control over the real property.

5. Defendant Margery Weiner resides in Monmouth County, NJ, within the jurisdiction of this Court. She is also the owner of the real property upon which the United States seeks to enforce its liens.

6. Defendant Wells Fargo Home Mortgage may have an interest in the real property upon which the United States seeks to enforce its lien by reason of a mortgage on the real property recorded in Monmouth County, NJ on Sept. 9, 2005.

7. Defendant Loancare Servicing Center may have an interest in the real property upon which the United States seeks to enforce its lien by reason of a lien filed on August 12, 2005 in Monmouth County, NJ.

8. Defendant JP Morgan Chase Bank may have an interest in the real property upon which the United States seeks to enforce its lien by reason of a lien filed on August 12, 2005 in Monmouth County, NJ.

9. Defendant Hulse & Wynter LLC may have an interest in the real property upon which the United States seeks to enforce its lien by reason of a lien filed on April 23, 2018 in Monmouth County, NJ.

10. Defendant Hulse & Wynter LLC may have an interest in the real property upon which the United States seeks to enforce its lien by reason of a lien filed on May 21, 2018 in Monmouth County, NJ.

#### **REAL PROPERTY**

11. The real property ("Real Property") against which foreclosure is requested is located in Monmouth County, NJ, within the jurisdiction of this Court, and is commonly known as 589 Westwood Ave. Long Branch NJ 07740.

12. The Real Property is more fully described as follows:

ALL that certain tract, lot and parcel of land lying and being in the city of Long Branch, County of Monmouth and State of New Jersey, being more particularly described as follows:

BEING a small triangular block bounded by Westwood, Hollywood and Brookdale Avenues, as shown on map entitled, "Map of Sections Number One and Two of the Lands of Mr. John Hoey, deceased, Hollywood, N.J." made by George Cooper, C.E., July 15, 1895, and filed in the Monmouth County Clerk's Office at Freehold, New Jersey and January 22, 1896 as case #6-7.

BEING at a pin set in the intersection of the northerly line of Hollywood Avenue and the southeasterly line of Westwood Avenue; thence,

(1) Along the southeasterly line of Westwood Avenue, North 46 degrees 56 minutes 00 seconds East, 238.67 feet to a point; thence,

(2) Along the southwesterly line of Brookdale Avenue, South 41 degrees 54 minutes 00 seconds East, 254.92 feet to a pin set; thence,

(3) Along the northerly line of Hollywood Avenue, North 85 degrees 33 minutes 32 seconds West, 345.64 feet to the point and place of BEGINNING.

THE above description is drawn in accordance with a survey prepared by, Charles V. Bell Associates, Inc., dated July 21, 2000.

### **COUNT I - ASSESSMENTS AGAINST STEVEN AND MARGERY WEINER**

13. The allegations of paragraphs 1 through 12, inclusive, are re-alleged and incorporated by reference in this count as though fully set forth herein.

14. A delegate of the Secretary of the Treasury of the United States properly and timely assessed federal income taxes, penalties, and statutory interest against Defendants Steven and Margery Weiner for the tax periods, on the dates and in the amounts set forth below:

<b>Tax Period Ending</b>	<b>Assessment Date</b>	<b>Assessment</b>	<b>Assessed Penalties</b>	<b>Assessed Interest</b>	<b>Total Due as of 11/19/18</b>	<b>Notice of Federal Tax Lien</b>
12/31/06	02/04/08	\$114,371	\$24,696.36	\$7,424.36	\$156,526.25	03/21/18
12/31/07	09/15/08	\$195,166	\$10,750.93	\$4,385.33	\$226,651.98	09/14/18
12/31/08	07/06/09	\$85,548	\$3689.45	\$711.13	\$142,887.40	08/14/09
12/31/10	05/30/11	\$165,791	\$2,948.68	\$634.17	\$204,855.86	06/22/11
12/31/11	05/28/12	\$58,963	\$1,249.20	\$171.91	\$75,744.76	07/11/12
12/31/12	11/18/13	\$97,282	\$2,552.07	\$1,022.77	\$86,219.69	03/25/14
12/31/13	11/17/14 07/11/16	\$89,766 \$2,261	\$4,618.21 \$452.20	\$1,433.24	\$122,536.57	12/17/14
12/31/14	08/24/15 07/11/16	\$43,654 \$11,193	\$1,075.66 \$270.80	\$280.01	\$53,376.35	10/28/15

12/31/15	11/21/16	\$78,894	\$2,107.69	\$1,125.54	\$63,706.98	02/08/17
12/31/16	11/20/17	\$77,628	\$3,252.5	\$1262.13	\$65,178.59	12/19/17

15. Notices and demands for payment of the tax assessments described in paragraph 14 were given to Defendants Steven and Margery Weiner, but they failed to fully pay the assessed amounts.

16. Statutory additions to tax have accrued and will continue to accrue on the unpaid balance of the federal tax liabilities set forth in paragraph 6, above.

17. As of November 19, 2018, the balance owed on the unpaid federal income tax liabilities described in paragraph 6, above, including accrued but unassessed interest and penalties, will be \$1,197,684.43. Statutory additions to tax and interest will continue to accrue thereafter according to law until paid in full.

18. The United States is entitled to judgment for the liability identified in paragraph 14 above.

WHEREFORE, Plaintiff, the United States of America, prays as follows:

A. That the Court order and adjudge that Defendants Steven and Margery Weiner will be indebted to the United States in the amount of \$1,197,684.43, as of November 19, 2018 plus penalties, interest, and statutory additions that will accrue from that date according to law until paid for federal income tax, penalties, and interest relating to the 2006-2008 and 2010-2016 tax years; and

B. That the Court award such other and further relief as may be deemed just and proper under the circumstances.

**COUNT II - TRUST FUND RECOVERY PENALTY ASSESSMENTS AGAINST  
STEVEN WEINER**

19. The United States incorporates by reference the allegations in paragraphs 1 through 18.

20. Defendant Steven Weiner is the president and 100% stockholder of Brick Group Dental PC, which is Dr. Weiner's dental practice. He is responsible for all financial decisions for the business. He signs tax returns and checks for the business, pays creditors, and hires and fires employees.

21. Dr. Weiner is responsible for withholding federal employment taxes from the wages of the employees of Brick Group Dental PC and collecting and paying those taxes to the United States.

22. Dr. Weiner was aware of the accruing unpaid federal employment tax liabilities of Brick Group Dental PC in the periods described in paragraph 24 below. Nevertheless, he consistently paid payroll and other business expenses including loans, suppliers and utilities in lieu of meeting employment tax obligations of Brick Group Dental PC.

23. As a result, Dr. Weiner willfully failed to collect, truthfully account for, and pay over to the United States the federal employment taxes that Brick Group Dental PC was required to withhold from employees' wages during the tax periods as described in paragraph 24 below.

24. On the dates, in the amounts, and for the taxable periods set forth below, a delegate of the Secretary of the Treasury assessed Trust Fund Recovery Penalty (“TFRP”) against Dr. Weiner under 26 U.S.C. § 6672:

<b>Tax Period</b>	<b>Assessment Date</b>	<b>Assessment Amount</b>	<b>Outstanding Balance<sup>1</sup> (through 11/19/2018)</b>	<b>Notice of Federal Tax Lien</b>
03/31/2008	07/20/2009	\$22,279.54	\$23,442.30	08/14/2009
06/30/2008	07/20/2009	\$22,069.50	\$23,221.30	08/14/2009
09/30/2008	07/20/2009	\$20,221.26	\$21,276.61	08/14/2009
12/31/2008	07/20/2009	\$21,686.50	\$22,818.31	08/14/2009
06/30/2010	11/14/2011	\$24,307.86	\$61.22	06/10/2012
06/30/2013	05/05/2014	\$17,756.55	\$53.38	06/18/2014
09/30/2013	05/05/2014	\$19,173.23	\$4624.03	06/18/2014
12/31/2013	10/03/2016	\$7733.14	\$8473.79	11/15/2016
03/31/2015	10/03/2016	\$854.84	\$936.73	11/15/2016
06/30/2015	10/03/2016	\$22,817.55	\$25,003.90	11/15/2016
09/30/2015	10/03/2016	\$17,937.42	\$19,656.16	11/15/2016
12/31/2015	10/03/2016	\$18,176.68	\$19,918.35	11/15/2016
03/31/2016	10/03/2016	\$2007.48	\$2199.83	11/15/2016
06/30/2016	12/25/2017	\$20,862.10	\$21,766.00	02/20/2018
09/30/2016	12/25/2017	\$16,647.37	\$17,369.02	02/20/2018
12/31/2016	12/25/2017	\$16,187.75	\$16,889.48	02/20/2018

---

<sup>1</sup> The total due reflects accrued interest, penalties, adjustments, payments, and credits as of November 19, 2018. Statutory additions continue to accrue on the assessed liabilities.



25. The United States gave Dr. Weiner proper notice of the assessments, and made demand for payment of the unpaid TFRPs listed in paragraph 24. Despite the notice and demand for payment, Dr. Weiner failed or refused to pay the outstanding TFRPs.

26. As a result, Dr. Weiner is indebted to the United States for unpaid TFRPs in the amount of \$227,710.41 as of November 19, 2018, plus interest and other statutory additions to tax that will continue to accrue thereafter as provided by law.

WHEREFORE, the United States of America seeks judgment in its favor and against Steven L. Weiner on Count II of its complaint as follows:

C. \$227,710.41 as of November 19, 2018, plus statutory additions and interest accruing after that date, until paid; and

D. Such other and further relief as may be deemed just and proper under the circumstances, including costs.

### **COUNT III - FORECLOSE FEDERAL TAX LIENS AGAINST THE REAL PROPERTY**

27. The United States incorporates by reference the allegations in paragraphs 1 through 26.

28. On July 16, 2007, a deed was recorded in Monmouth County in which Dr. Steven Weiner and Margery Weiner purported to convey the Real Property to Margery Weiner for no consideration.

29. Steven Weiner may continue to have an interest in Real Property by reason of continued control over and possession of the property.

30. The federal tax liens described in paragraph 14 above attached to the Real Property sought to be foreclosed in this action, and remain on the Real Property, despite any transfers.

WHEREFORE, the United States of America respectfully prays:

E. That the Court order, adjudge, and decree that the United States of America holds valid and subsisting tax liens on the Real Property with respect to the tax assessments described in paragraph 14, above;

F. That the Court order, adjudge, and decree that the federal tax liens described in paragraph 14 above be foreclosed against the Real Property;

G. That the Court order, adjudge, and decree the priority of liens and interests in the Real Property;

H. That the Court order that the Real Property be sold, and that the proceeds of the sale be distributed first to reimbursement of the costs of the sale; then to any liens or interests with priority over the federal tax liens; then to the United States of America in satisfaction of the tax liens described in paragraph 14; and then to any liens or interests with priority after the federal tax liens; and

//

//

//

I. That the Court award the United States of America such further relief including the costs of this action that the Court finds to be just and proper.

Date: December 21, 2018

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

s/ Olga L. Tobin  
OLGA L. TOBIN  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 227  
Washington, D.C. 20044  
Telephone: (202) 307-6322  
Fax: (202) 514-6866  
olga.l.tobin@usdoj.gov  
*Counsel for the United States*

OF COUNSEL:  
J. Andrew Ruymann  
Assistant U.S. Attorney  
District of New Jersey

**Certificate of Service**

IT IS HEREBY CERTIFIED that service of the Amended Complaint has been made on December 21, 2018 via first class mail on the following:

STEVEN AND MARGERY WEINER  
589 WESTWOOD AVE,  
LONG BRANCH, NJ 07740  
*Defendants*

/s/ Olga L. Tobin  
OLGA L. TOBIN  
Trial Attorney, Tax Division  
U.S. Department of Justice